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DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Van Hal et al :
Application No. 10/567,040 : DECISION GRANTING PETITIONS
Filed: February 2, 2006 : UNDER 37 CFR 1.137(b) AND
Attorney Docket No. NL030940 : 37 CFR 1.313(c)(2)

This is a decision on the petitions, filed December 16, 2008, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 1, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the \$1,510 issue fee and the \$300 publication fee, (2) the petition fee of \$1,540, and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. Accordingly, the reply to the Notice of November 1, 2007 is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

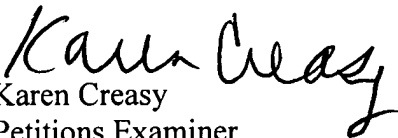
Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Since the above petition under 37 CFR 1.137(b) is a renewed petition, the petition fee submitted on December 16, 2008, can be refunded by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3735 for processing the RCE and for consideration of the Information Disclosure Statement submitted on December 16, 2008.


Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038**

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.